

HOUSE No. 1039

By Ms. Balser of Newton, petition of Ruth B. Balser and others relative to further regulating special education referrals for evaluations. Education.

The Commonwealth of Massachusetts

PETITION OF:

Ruth B. Balser	Michael E. Festa
Frank I. Smizik	Barbara A. L'Italien
Deborah D. Blumer	Steven A. Tolman
David Paul Linsky	Cory Atkins
Alice K. Wolf	Thomas J. O'Brien

In the Year Two Thousand and Five.

AN ACT REGARDING REFERRALS FOR EVALUATIONS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 Chapter 71B, Section 3 of the General Laws is hereby amended
2 by inserting after paragraph four, as appearing in the 2002 Official
3 Edition, the following paragraph:—
4 Referral: Determinations Required. No later than five (5) days
5 after the occurrence of any of the conditions described in parts (a)
6 through (c) of this section, each school committee shall insure that
7 the following categories of children are referred to the person
8 described in each paragraph for a determination of whether pre-
9 referral efforts were made pursuant to Chapter 71B, section 2 or a
10 referral for a special education evaluation should be made:
11 (a) The principal, or his or her designee, of the school attended
12 by such child shall determine whether pre-referral efforts were
13 made pursuant to Chapter 71B, section 2 or a referral for an evalu-
14 ation should be made if any of the following conditions exist and
15 shall promptly and in writing notify the parent(s) or guardian(s) of
16 said child which condition exists if a referral is being made and of
17 their right to make such referral.

18 (1) Any child who at mid-year presents a substantial risk of
19 non-promotion. For purposes of this paragraph, a substantial risk
20 for non-promotion shall be considered to exist if a child is failing
21 in two or more non-elective subjects.

22 (2) Any child who fails to be promoted at the end of the school
23 year.

24 (3) Any child who has been suspended more than five (5)
25 school days in any quarter or excluded from school.

26 (4) Any child who has been absent without medical excuse for
27 more than fifteen (15) school days in any quarter.

28 (5) Any child ages sixteen (16) through twenty-one (21) who is
29 planning to leave school without a high school diploma.

30 (b) A child who has been committed or referred to the Depart-
31 ment of Youth Services, and who is currently under its jurisdic-
32 tion. An official from the Department of Youth Services shall be
33 responsible for determining whether a referral for an evaluation
34 should be made.

35 (c) A child who demonstrates a substantial negative change in
36 alertness, learning or behavioral capacity within two weeks of
37 returning to school with the mumps, measles, chicken pox,
38 encephalitis or other high fever, or after cerebral injuries
39 involving loss of consciousness. The school nurse shall inquire
40 into the condition of such child within such two-week period, and
41 shall be responsible for determining whether a referral for an eval-
42 uation should be made.